



Congress of the United States

House of Representatives

December 7, 2021

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr. President:

Throughout the past few weeks, I hosted a series of roundtable discussions with several business leaders in South Dakota to hear their concerns with your administration's vaccine mandates. I write to share the perspectives I gathered from those discussions and to ask for clarification on questions many private businesses and federal contractors are struggling with nationwide.

To be clear, I do not support the mandates. While I believe in the vaccine, I also believe in a limited federal government. The vaccine is safe and effective, but a mandate at the federal level raises serious constitutional, ethical, and practical concerns.

First and foremost, the main concern I heard from employers is the effect on workforce participation the mandate will have on both retaining current employees and hiring new talent. A mining and mineral processing facility in Rapid City, South Dakota, stated their employees are "more anti-mandate than anti-vaccine." Multiple businesses have stated that since the mandate's announcement, they have experienced issues hiring consultants, subcontractors, and fully remote workers because such individuals do not want to be subject to mandatory vaccination. Many employers who contract with the federal government rely on subcontractor labor, including Quinn Construction in Rapid City, South Dakota. Regretfully, Quinn Construction will likely be forced to pass on upcoming Ellsworth Air Force Base bids due to their inability to find the workers necessary to complete the projects.

For LaCreek Development, a general contractor in Martin, South Dakota, Native Americans make up about 85 percent of their employees. Due, in part, to a historic distrust of the federal government, the vaccination rate within the Oglala Sioux Tribe is 41 percent. "There is a lot of fear" of the vaccine, and LaCreek has seen willingness to work for federal projects sharply decline. This mandate will have devastating effects on employment in predominately Native areas.

Contractors in the energy and defense sectors provide vital services for the federal government – services that would pose major national security threats if interrupted. Businesses such as East River Electric, a wholesale power supply cooperative in eastern South Dakota, rely on highly specialized employees to run their transmission system along with their power suppliers who operate generating facilities. These employees throughout the power delivery system have decades of experience that would take many months to replace. The energy services that utility companies throughout South Dakota provide are essential. If they are not adequately staffed, the reliability of the United States' power grid would be at stake.

Black Hills Ammunition in Rapid City, South Dakota provides special operations ammunition to the Department of Defense (DoD). Due to the mandate, it will be "difficult for [them] to meet [their] goals as a federal contractor" if they must let workers go for being unvaccinated. Their ammunition product is "something that the government needs, but if [they] don't have enough people, it will be difficult to make those contracts." Another large DoD contractor based in South Dakota expressed their view that the government is "pushing away" the best talent our nation has to offer from working towards the national security of our federal government.

Additionally, the leaders I spoke with shared they felt the burden was placed on them as employers to implement the mandate. A large production facility in Aberdeen, South Dakota, is struggling with the collection and tracking of employee vaccination status. A construction company in Rapid City, South Dakota, feels “to put [this burden] on the employers is a really bitter pill.” Black Hills Ammunition also feels conflicted, stating they feel uncomfortable the federal government is forcing workers into being dishonest and “pushing workers into [claiming] a religious objection” who in reality simply wish to not be vaccinated. Quinn Construction is struggling with the bilateral agreements from the federal government they are expected to sign; “it’s very hard to sign something that says we will agree to whatever you say in the future.”

Finally, many businesses expressed they find a vaccine mandate unnecessary to keep their employees safe. Each business leader I spoke with detailed the many ways they kept their folks safe during the pandemic, including mask mandates, physical distancing, expanded sick days, even hosting vaccine clinics at their places of work. An electric and natural gas provider in South Dakota saw no more than three reported transmissions of COVID-19 in the workplace throughout the past 21 months. Another large DoD contractor in South Dakota never had to shut down operations during the pandemic and stated “the directive from the government did not add anything new to what we were doing” to keep employees safe.

There remain several unanswered questions, and I respectfully request clarification on the following from your administration within the next 30 days:

- Can you ensure our national security will not be at risk due to the ramifications of your mandate?
- What is your plan to counter the unavoidable decreased labor participation effects of your mandate?
- Please clarify the scope of the federal contractor mandate as it regards “spillover”:
 - If one employee independently participates in a contract, is the rest of their office now covered by the mandate? If a federal contractor business shares an office building with a non-contracted business, are they now covered?
- Please clarify the definition of fully vaccinated.
 - Are those possessing antibodies from a previous infection considered “fully vaccinated”?
 - Are booster shots required to be considered “fully vaccinated”?
- Will you consider adding a test-out option for federal contractors, similar to the Occupational Safety and Health Administration Emergency Temporary Standard?
- Please clarify what directives employers should follow when state law conflicts with federal law as it relates to your vaccine mandate.

Our country is facing serious domestic issues: the supply chain crisis, record-low workforce participation rates, and a great sense of division between everyday Americans. This mandate will only make these issues worse. I implore you to consider the items outlined above, and I look forward to hearing answers to the questions raised.

Sincerely,



Dusty Johnson
Member of Congress